

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN F. PEOPLES

v.

DISCOVER FINANCIAL SERVICES, INC.:
and DISCOVER CARD SERVICES, INC. : CIVIL ACTION NO. 08-CV-2024
trading as DISCOVER CARD,

and

GINGER DAYLE, GINGER DAYLE
PRODUCTIONS and NEW CITY STAGE
COMPANY

ORDER

AND NOW, this ____ day of ____, 2008, upon consideration of the Motion for Summary Judgment of Defendants Ginger Dayle, Ginger Dayle Productions and New City Stage Company, and Plaintiff's response thereto, it is hereby ORDERED that the Motion for Summary Judgment is **GRANTED**.

BY THE COURT:

The Honorable Edmund V. Ludwig
U.S.D.J.

LAW OFFICES OF WILLIAM C. REIL

BY: William C. Reil, Esquire

Identification No. 26833

42 South 15th Street, Suite 210

Philadelphia, PA 19102

(215) 564-1635

JOHN F. PEOPLES

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and DISCOVER CARD SERVICES, INC. :
trading as DISCOVER CARD, :

and

GINGER DAYLE, GINGER DAYLE :
PRODUCTIONS and NEW CITY STAGE :
COMPANY :

ATTORNEY FOR DEFENDANTS DAYLE

: UNITED STATES DISTRICT COURT

: FOR THE EASTERN DISTRICT

: OF PENNSYLVANIA

: CIVIL ACTION NO. 08-CV-2024

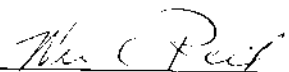
NOTICE OF MOTION

TO: Stephen H. Cristal, Esquire
Law Offices of John F. Peoples
2701 West Chester Pike, Suite 104
Broomall, PA 19008

Benjamin M. Schmidt, Esquire
Ballard Spahr Andrews &
Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103

PLEASE BE ADVISED that the within the Motion for Summary Judgment of Defendants Ginger Dayle, Ginger Dayle Productions and New City Stage Company, was hand-delivered to the Clerk of Court for docketing on 12/30/08. After docketing you have fourteen (14) days to file a responsive pleading or the matter will be taken as uncontested.

Dated: 12/30/08


William C. Reil, Esquire
Attorney for Dayle Defendants

LAW OFFICES OF WILLIAM C. REIL
 BY: William C. Reil, Esquire
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ATTORNEY FOR DEFENDANTS DAYLE

: UNITED STATES DISTRICT COURT
 : FOR THE EASTERN DISTRICT
 : OF PENNSYLVANIA

: CIVIL ACTION NO. 08-CV-2024

FILED

DEC 30 2008

MICHAEL E. KUNZ, Clerk
 By _____ Dep. Clerk

MOTION FOR SUMMARY JUDGMENT OF
DEFENDANTS GINGER DAYLE, GINGER DAYLE PRODUCTIONS
AND NEW CITY STAGE COMPANY

The Dayle defendants, by their undersigned counsel, submit this Motion for Summary Judgment, and in support thereof, it is averred as follows:

PRELIMINARY STATEMENT

The Dayle defendants (Ginger Dayle, Ginger Dayle Production and New City Stage Company) hereby join in the Motion for Summary Judgment of Discover Financial Services, Inc. and Discover Card Services, Inc. trading as Discover Card, which was filed on or about November 13, 2008. The Dayle defendants are joining in the motion for summary judgment of the other defendant, Discover Card, and they incorporate by reference the arguments and testimony advanced by Discover, which the Dayle defendants also believe entitle them to Summary Judgment. A true and correct copy of the front page of Discover's motion for summary judgment, which is incorporated herein, is attached as Exhibit "A."

ARGUMENT AND CONCLUSIONS OF LAW

In his deposition, Attorney John Peoples unequivocally stated that he is suing Ginger Dayle arising out of alleged prostitution services for which he was overcharged because of his blindness. Defendant Dayle denied that she has ever been involved in prostitution. She testified at her deposition that she is a licensed fitness instructor who has a studio in Center City, earned a degree in economics from the Wharton School, and that she has danced with the Pennsylvania and London Ballet.

As Discover has ably set-out in its motion for summary judgment, there is no federal case here, even if Mr. Peoples' testimony is to be believed: **(1) The law does not recognize a cause of action arising out of prostitution services; (2) The American for Disabilities Act, on which Federal jurisdiction is based, is not implicated in this case, particularly because Ms. Dayle's apartment, where all events in this case occurred, was not a place of public accommodation.**

STANDARD FOR SUMMARY JUDGMENT

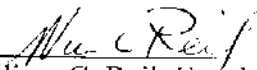
In order to prevail on a motion for summary judgment, defendants must show, taking facts and inferences in the light most favorable to plaintiff, that no reasonable fact finder could find for the plaintiff on an issue which is case determinative. Thomas v. Transamerica Accidental Life Insurance Company, 761 F. Supp. (D.Or. 1991). Summary Judgment is inappropriate when credibility is at issue or different ultimate inferences can be reached. FRCP 56(c). In addition to the evidence cited in Rule 56(c), a court may take into account any material that would be admissible or usable at trial. Wright and Miller,

Federal Practice and Procedure Section 2721 at 40 (2d. Ed. 1983). In evaluating a summary judgement motion, the record will be viewed in the light most favorable to the opposing party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505 (1986). Summary judgment is appropriate only if there is no genuine issue of material fact such that a reasonable fact finder could find for the non-moving party, Celotex Corp. v. Cartaret, 477 U.S. 317, 106 S.Ct. 2548 (1986).

CONCLUSION

In short, Mr. Peoples' claim that he was defrauded by a prostitute does not give rise to a Federal cause of action under any set of facts.

Respectfully submitted,



William C. Reil, Esquire
Attorney for Dayle Defendants
12/30/08

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached document (s)
was served upon all other parties or their counsel of record by:

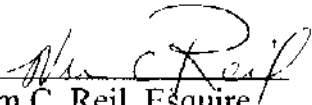
_____ ✕ _____ Regular First Class Mail

_____ ✕ _____ Facsimile

_____ Certified Mail

_____ Hand-Delivered

Date: 12/30/08



William C. Reil, Esquire
Attorney for Defendants Dayle
42 S. 15th Street, Suite 210
Philadelphia, PA 19102

A

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JOHN F. PEOPLES,

Plaintiff,

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DISCOVER FINANCIAL SERVICES, INC.
and DISCOVER CARD SERVICES, INC.
trading as DISCOVER CARD,

and,

GINGER DAYLE, GINGER DAYLE
PRODUCTIONS and NEW CITY
STAGE COMPANY,

Defendants.

CIVIL ACTION NO. 08-CV-2024

MOTION FOR SUMMARY JUDGMENT

Defendant Discover Financial Services, Inc., now known as DFS Services LLC,¹
hereby moves for summary judgment under Fed. R. Civ. P. 56 for the reasons stated in the
attached memorandum and exhibits.

/s/ Benjamin M. Schmidt

Martin C. Bryce, Jr. (I.D. No. 59409)
Benjamin M. Schmidt (I.D. No. 205096)
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
1735 Market Street, 51st Floor
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schmidt@ballardspahr.com
Telephone: (215) 864-8238/8136

Dated: November 13, 2008

Attorneys for Defendant DFS Services LLC

¹ Naming "Discover Card Services, Inc. trading as Discover Card" as a party is a misnomer because it is not a legal entity, but rather a credit card serviced by DFS Services LLC.

(A)